

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1 and 8-20 are pending in the present application, Claims 1, 8, 9-11, 12 and 13 having been amended, and Claims 19 and 20 having been added. Support for the amendments to Claims 1 and 13 is found, for example, at page 15, lines 14-25 of the originally filed specification. Claims 8, 9, 11, and 12 are amended to be consistent with Claim 1. Support for new Claims 19 and 20 is found, for example, at page 78, lines 20-24 of the originally filed specification. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, Claims 1 and 8-18 were rejected under 35 U.S.C. §103(a) as unpatentable over Nemirofsky et al. (WO 94/03995, herein Nemirofsky) in view of Official Notice.

Applicants respectfully submit that amended Claim 1 patentably distinguishes over Nemirofsky and the Official Notice. Amended Claim 1 recites, *inter alia*, “wherein the one of the terminal apparatuses sends the center system a picture of a screen of said the one of the terminal apparatuses on which the contents received from the center system is displayed; and a remote monitoring unit configured to determine based on the received picture of the screen of said one of the terminal apparatuses whether any of the plurality of contents are displayed on the screen of said the one of the terminal apparatuses.”

The verification logs and failure/alarm information of Nemirofsky does not equate to the claimed “the received picture of the screen of said one of the terminal apparatuses.” Furthermore, the outstanding Office Action acknowledges that Nemirofsky does not explicitly disclose determining whether any of the plurality of contents are displayed.

With regard to this noted deficiency in light of the rejection under 35 U.S.C. § 103(a), the Office Action is takes official notice without providing a citation in support of its assertion.

Applicants respectfully submit that official notice alone is not permissible as grounds for rejection in the outstanding Office Action. As stated in the MPEP at § 2144.03(A):

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21.

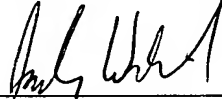
With regard to the above, Applicants respectfully submit that the features advantageously recited in Claim 1 are not “capable of instant and unquestionable demonstration as being well-known.” Accordingly, Applicants respectfully traverse the use of official notice.

Applicants respectfully submit that Claim 1 (and any claims dependent thereon) patentably distinguish over Nemirofsky and official notice. Claim 13 recites elements similar to those of Claim 1. Applicants respectfully submit that Claim 13 (and any claims dependent thereon) patentably distinguish over Nemirofsky and official notice for at least the reasons stated for Claim 1.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



James J. Kulbaski
Attorney of Record
Registration No. 34,648

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Joseph Wrkich
Registration No. 53,796